

Senate Bill No. 1860

Passed the Senate June 29, 1998

Secretary of the Senate

Passed the Assembly June 25, 1998

Chief Clerk of the Assembly

This bill was received by the Governor this ____ day
of _____, 1998, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER ____

An act to amend Sections 20201, 20206.4, 20581, 20631, 20642, 20685, 20783, 20803, 21031, 21042, 21161, 21201, 21321, 21511, 21541, and 21621 of the Public Contract Code, to amend Section 65 of the Antelope Valley-East Kern Water Agency Law (Chapter 2146 of the Statutes of 1959), to amend Section 13 of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955), and to amend Section 28 of the Kings River Conservation District Act (Chapter 931 of the Statutes of 1951), relating to public works.

LEGISLATIVE COUNSEL'S DIGEST

SB 1860, Costa. Local Agency Public Construction Act: competitive bidding: local agencies.

(1) The Local Agency Public Construction Act sets forth the requirements for competitive bidding on various types of contracts awarded by local agencies. Under existing provisions of that act, a public utility district, municipal water district, water storage district, levee district, community services district, sanitation district, sanitary district, the American River Flood Control District, the Orange County Water District, the Santa Clara Valley Water District, the Yolo County Flood Control and Water Conservation District, the Tehama County Flood Control and Water Conservation District, the San Gorgino Pass Water Agency, the Crestline-Lake Arrowhead Water Agency, the Monterey Peninsula Water Management District, the Antelope Valley-East Kern Water Agency, the Fresno Metropolitan Flood Control District, and the Kings River Conservation District, when letting various contracts over a specified dollar amount, are required to let the contracts to the lowest responsible bidder.

This bill would increase the threshold amounts for these purposes.



(2) Existing law requires the board of a public utility district to advertise annually for sealed bids for furnishing the district with supplies and advertisements.

This bill would authorize, but not require, the board of a public utility district to advertise annually for this purpose.

The people of the State of California do enact as follows:

SECTION 1. Section 20201 of the Public Contract Code is amended to read:

20201. Every complete project for new construction or project for any alteration, maintenance, or repair, if the costs of materials, supplies and labor exceed fifteen thousand dollars (\$15,000), shall be let to the lowest responsible bidder. The board shall adopt plans and specifications, strain sheets, and working details and shall advertise for bids for the project in accordance with the plans and specifications so adopted. Notice inviting bids for all projects shall be published in a newspaper in the district at least one week prior to the time specified for receiving bids.

SEC. 2. Section 20206.4 of the Public Contract Code is amended to read:

20206.4. Except as otherwise provided in this article, the board may annually advertise for sealed bids for furnishing the district with goods, merchandise, stores, subsistence, printing, materials, and all other supplies, and advertising. The advertisement shall be published pursuant to Section 6062 of the Government Code in the county in which the greater part of the district is situated.

SEC. 3. Section 20581 of the Public Contract Code is amended to read:

20581. Before making any contract for the construction or improvement of works in carrying out any project totaling twenty-five thousand dollars (\$25,000) or more, the board shall advertise for bids.

SEC. 4. Section 20631 of the Public Contract Code is amended to read:

20631. Contracts in excess of two thousand five hundred dollars (\$2,500) for the construction or repair of any levees or associated works, unless the construction or repair is done under its own superintendence, shall be made pursuant to this chapter.

SEC. 5. Section 20642 of the Public Contract Code is amended to read:

20642. When work is not to be done by the district itself by force account, and the amount involved is thirty-five thousand dollars (\$35,000), or more, any contract for the doing of the work shall be let to the lowest responsible bidder, after publication, in the manner prescribed by the board, of notices inviting bids therefor. However, the board may reject any and all proposals.

SEC. 6. Section 20685 of the Public Contract Code is amended to read:

20685. (a) All contracts for the construction of any unit of work, except as provided in this article, estimated to cost in excess of fifteen thousand dollars (\$15,000), shall be let to the lowest bidder after competitive bidding. The board shall have the right to reject any bid, in which case the board may call for new bids.

(b) In the event no proposals are received, or where the estimated cost of the work does not exceed the sum of ten thousand dollars (\$10,000), or where the work consists of emergency work, the board of directors may have that work done by force account. In the case of an emergency, if notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050).

(c) The district shall have the power to purchase, in the open market without calling for bids, materials and supplies for use in the work either under contract or by force account. However, materials and supplies for use in any new construction work or improvement, except work referred to in subdivision (b), may not be purchased if the cost exceeds fifteen thousand dollars (\$15,000), without calling for bids and awarding the contract to the lowest responsible bidder.



SEC. 7. Section 20783 of the Public Contract Code is amended to read:

20783. When work is done by the district itself by force account, the amount shall not exceed five thousand dollars (\$5,000). When the expenditure required for the work exceeds thirty-five thousand dollars (\$35,000), it shall be contracted for and let to the lowest responsible bidder after notice. The notice inviting bids shall set a date for the opening of bids. The first publication or posting of the notice shall be at least 10 days before the date of opening the bids. Notice shall be published at least twice, not less than five days apart, in a newspaper of general circulation, printed and published in the district, or if there is none, it shall be posted in at least three public places in the district that have been designated by the district board as the places for posting this notice. The notice shall distinctly state the work to be done.

In its discretion, the district board may reject any bids presented and readvertise. If two or more bids are the same and the lowest, the district board may accept the one it chooses. If no bids are received, the district board may have the work done without further bid.

If all bids are rejected, the district board, on a resolution adopted by a four-fifths vote, may declare that the work can be performed more economically by day labor, or the materials or supplies furnished at a lower price in the open market and may have the work done in a manner stated in the resolution in order to take advantage of this lower cost.

If there is a present or anticipated great public calamity, including an extraordinary fire, flood, storm, or other disaster the district board may, by resolution adopted by a four-fifths vote declaring that the public interest and necessity demand immediate expenditure of public money to safeguard life, health, or property, expend any sum required in the emergency without submitting the expenditure to bid.

Cost records of the work shall be kept in the manner provided in Sections 4000 to 4007, inclusive, of the Government Code.



This section shall not apply to sewerage maintenance, repair work, or to any uncompleted works under construction by district forces prior to the enactment of this section, and shall not be construed to exempt any work from Part 7 (commencing with Section 1720) of Division 2 of the Labor Code.

SEC. 8. Section 20803 of the Public Contract Code is amended to read:

20803. When the expenditure required for a district project exceeds fifteen thousand dollars (\$15,000), it shall be contracted for and let to the lowest responsible bidder after notice, subject to Section 20805.

SEC. 9. Section 21031 of the Public Contract Code is amended to read:

21031. (a) In all work of improvement or repair of any of the works or property of the district and in the furnishing of materials or supplies therefor, when the expenditures required exceed twenty-five thousand dollars (\$25,000), the work shall be done by contract, and shall be let to the lowest responsible bidder, after notice by publication in a newspaper of general circulation published in the district for at least two insertions in a weekly newspaper or at least 10 insertions in a daily newspaper; the notices shall state the work contemplated or the materials or supplies required, or both. The board of trustees may reject any bid presented and readvertise in their discretion. The board may declare and determine that in its opinion the work in question can be performed more economically by day labor or the materials or supplies can be furnished at a lower price in the open market, and they may proceed to have the work done or the materials purchased without further observance of the foregoing provisions of this section.

(b) In case of an emergency, the board of trustees may declare a state of great public emergency and proceed to have all necessary work done and materials and supplies furnished without further observance of the foregoing provisions of this section. If notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050).



(c) None of the foregoing provisions of this section apply to work done by contract with the United States, the State of California, or any political subdivision, or public agency thereof. Any work of improvement or repair provided for in this article may be located, constructed and maintained in, along, or across any railroad, public road, or highway in the County of Sacramento, in a manner that ensures security for life and property. The board of trustees shall restore or cause to be restored the road or highway to its former state as near as possible to preserve its usefulness.

SEC. 10. Section 21042 of the Public Contract Code is amended to read:

21042. The district may prescribe methods for the construction of works and for the letting of contracts for any of the following purposes:

(a) The construction of works, structures, or equipment.

(b) The performance or furnishing of labor, materials, or supplies, necessary or convenient for carrying out any of the purposes of this act.

(c) The acquisition or disposal of any real or personal property.

When work is not to be done by the district itself by force account, and the amount involved is forty thousand dollars (\$40,000), or more, any contract for the doing of the works shall be made by the district with the lowest and best bidder after the publication pursuant to Section 6061 of the Government Code in a newspaper of general circulation published within the district, of a notice calling for bids and fixing a period during which bids will be received, which shall be not less than 10 days after the publication of the notice. The district may reject any and all of the bids presented and may readvertise in its discretion. After rejecting bids, or if no bids are received, the district may determine and declare that in its opinion, based on estimates submitted by the engineer for the district, any work may be performed better or more economically by the district with its own employees, or after hiring additional employees. After the adoption of



a resolution to this effect by at least seven affirmative votes of the directors of the district, the district may proceed to have that work done in the manner stated and without further observance of the provisions of this section.

SEC. 11. Section 21161 of the Public Contract Code is amended to read:

21161. (a) Any improvement or unit of work not performed by district personnel and estimated by the engineer to cost in excess of twenty-five thousand dollars (\$25,000) shall be done by contract. All contracts shall be let to the lowest responsible bidder or bidders in the manner provided in this article. The board shall first determine whether the contract shall be let as a single unit for the whole of the work, or shall be divided into severable parts, or both, according to the best interests of the district. The board shall call for bids and advertise the call by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the district inviting sealed proposals for the construction or performance of the improvement or work before any contract is made. The call for bids shall state whether the work is to be performed as a unit for the whole thereof or shall be divided into severable specific parts, or both, as stated in the call. The board may let the work by single contract or it may divide the work into severable parts by separate contracts, as stated in the call, according to the best interests of the district. The board shall require the successful bidder or bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material, the bonds to contain the terms and conditions set forth in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code and to be subject to the provisions of that title. The board shall also have the right to reject any bid. In the event all proposals are rejected or no proposals are received pursuant to advertisement, or the estimated cost of the work does not



exceed five thousand dollars (\$5,000), or the work consists of channel protection, maintenance work, or emergency work, the board may, without advertising for bids, have the work done by force account. In case of an emergency, if notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050). The district may purchase in the open market, without advertising for bids, materials and supplies for use in any work either under contract or by force account.

(b) The provisions of this section requiring competitive bidding and the award of contracts to the lowest responsible bidder are inapplicable to the extent the improvement or unit of work is to be performed on its own facilities by a public utility subject to the jurisdiction of the California Public Utilities Commission.

SEC. 12. Section 21201 of the Public Contract Code is amended to read:

21201. All contracts for the construction of any unit of work, except as provided, estimated to cost in excess of ten thousand dollars (\$10,000) shall be let to the lowest responsible bidder in the manner as provided.

SEC. 13. Section 21321 of the Public Contract Code is amended to read:

21321. (a) All contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed thirty thousand dollars (\$30,000), shall be let to the lowest responsible bidder or bidders as provided in this article. The board shall first determine whether the contract shall be let as a single unit, or divided into severable parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the agency's jurisdiction, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in the call.



The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code.

(b) The board may reject any bid. In the event all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed five thousand dollars (\$5,000), or the work consists of channel protection, maintenance, or emergency work, the board may have the work done by force account without advertising for bids. In case of an emergency, if notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050). In the event that no proposals are received, or if only one responsive proposal is received, the board may negotiate a contract for construction or performance of the work or improvement or substantially similar work or improvement. However, if only one responsive proposal is received, the contract must be negotiated with the bidder.

(c) The agency may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account.

(d) Sections 4300 to 4305, inclusive, of the Government Code do not apply to the agency's Middle Fork American River Project.

(e) This section applies to all proposals or contracts whether or not received or entered into prior to the effective date of the amendment of this provision made at the 1963 Regular Session of the Legislature.

SEC. 14. Section 21511 of the Public Contract Code is amended to read:

21511. (a) All contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed fifty thousand dollars (\$50,000), shall be let to the lowest responsible bidder or bidders as



provided in this article. The board shall first determine whether the contract shall be let as a single unit or divided into severable parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in the call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code. The board may reject any and all bids.

(b) In the event all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed ten thousand dollars (\$10,000), or the work consists of channel protection, maintenance work, or emergency work, the board may have the work done by force account without advertising for bids. In case of an emergency, if notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050).

(c) The agency may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account. However, materials and supplies for use in any new construction work or improvement, except work referred to in subdivision (b), may not be purchased, if the cost exceeds fifty thousand dollars (\$50,000), without advertising for bids and awarding the contract to the lowest responsible bidder.

SEC. 15. Section 21541 of the Public Contract Code is amended to read:

21541. (a) The Crestline-Lake Arrowhead Water Agency shall have power to prescribe methods for the



construction of works and for the letting of contracts for the construction of works, structures, or equipment, or the performance or furnishing of labor, materials, or supplies, necessary or convenient for carrying out any of the purposes of this act or for the acquisition or disposal of any real or personal property. However, all contracts for the construction of any improvement or unit of work, when the cost, according to the estimate of the engineer, will exceed twenty-five thousand dollars (\$25,000), shall be let to the lowest responsible bidder or bidders as provided in this article. The board shall first determine whether the contract shall be let as a single unit or divided into severable parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in the call.

The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code. The board may reject any bid.

(b) In the event all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed five thousand dollars (\$5,000), or the work consists of channel protection, maintenance work, or emergency work, the board may have the work done by force account without advertising for bids. In case of an emergency, if notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050).

(c) The agency may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force



account. However, materials and supplies for use in any new construction work or improvement, except work referred to in subdivision (b), may not be purchased if the cost exceeds twenty-five thousand dollars (\$25,000), without advertising for bids and awarding the contract to the lowest responsible bidder.

SEC. 16. Section 21621 of the Public Contract Code is amended to read:

21621. Any improvement or unit of work, when the cost, according to the estimate of the engineer, will exceed ten thousand dollars (\$10,000), shall be done by contract and shall be let to the lowest responsible bidder or bidders in the manner provided in this article. The board shall first determine whether the contract shall be let as a single unit or shall be divided into severable parts, according to the best interests of the district. The board shall call for bids and advertise the call by publication pursuant to Section 6061.3 of the Government Code in a newspaper of general circulation published or circulated in the district, inviting sealed proposals for the construction or performance of the improvement or work before any contract is made. The call for bids shall state whether the work is to be performed as a unit or is to be divided into parts, as stated in the call. The board may let the work by single contract or it may divide the work into parts by separate contracts, as stated in the call.

SEC. 17. Section 65 of the Antelope Valley-East Kern Water Agency Law (Chapter 2146 of the Statutes of 1959) is amended to read:

Sec. 65. All powers, privileges, and duties vested in or imposed upon the Antelope Valley-East Kern Water Agency incorporated hereunder shall be exercised and performed by and through the board of directors. However, the exercise of any and all executive, administrative, and ministerial powers may be by the board of directors delegated and redelegated to any of the offices created hereby and by the board of directors acting hereunder.

The board of directors shall have power:



(1) To fix the time and place or places at which its regular meetings shall be held, and to provide for the calling and holding of special meetings.

(2) To fix the location of the principal place of business of the agency and the location of all offices and departments maintained hereunder.

(3) To prescribe by ordinance a system of business administration and to create any and all necessary offices and to establish and reestablish the powers and duties and compensation of all officers and employees and to require and fix the amount of all official bonds necessary for the protection of the funds and property of the agency.

(4) To prescribe by ordinance a system of civil service.

(5) To delegate and redelegate by ordinance to officers of the agency power to employ clerical, legal, and engineering assistants and labor, and under the conditions and restrictions as shall be fixed by the directors, power to bind the agency by contract.

(6) To prescribe a method of auditing and allowing or rejecting claims and demands.

(7) To prescribe methods for the construction of works and for the letting of contracts for the construction of works, structures, or equipment, or the performance or furnishing of labor, materials, or supplies, necessary or convenient for carrying out any of the purposes of this act or for the acquisition or disposal of any real or personal property. However, in cases where work is not to be done by the agency itself by force account, and the amount involved shall be fifty thousand dollars (\$50,000), or more, any contract for the doing of the work shall be let to the lowest responsible bidder, after publication, in the manner prescribed by the board, of notices inviting bids therefor, subject to the right of the board to reject any and all proposals. Contracts, in writing or otherwise, for the acquisition or disposal of any real or personal property may be let without calling for competitive bids. The board may, from time to time, fix and establish the manner of calling for bids and letting contracts, but except as the procedure established by the board otherwise requires, all contracts may be entered into



upon the terms and in the manner as the board may authorize.

(8) To fix the rates at which water should be sold, and to establish different rates for different classes or conditions of service. However, rates shall be uniform for like classes or conditions of service throughout the agency, but any special water rate fixed in accordance with terms and conditions of annexation fixed by the board under Section 82 or 83 hereof, shall be deemed to be a rate for a different class or condition of service. The board may, by resolution or ordinance, adopt regulations respecting the exercise of its powers and the carrying out of its purposes, and to fix and collect rates and charges for the providing or the availability of any service it is authorized to provide or make available for the sale, lease, or other disposition of water or other product of its works or operations, including standby charges and connection charges. A violation of a regulation of the agency adopted by ordinance is a misdemeanor punishable by fine not to exceed one hundred dollars (\$100), imprisonment not to exceed one month, or by both the fine and imprisonment.

SEC. 18. Section 13 of the Fresno Metropolitan Flood Control Act (Chapter 503 of the Statutes of 1955) is amended to read:

Sec. 13. All contracts for materials, supplies, or for the construction or repair of works or improvements that has a contract price exceeding ten thousand dollars (\$10,000) shall be let to the lowest responsible bidder after notice inviting bids is published in the district pursuant to Section 6061 of the Government Code, the publication to be not less than 10 days prior to the date set for the opening of bids. The contracts may be let by the board without public bidding where (1) they are entered into with any other public agency for governmental entity, (2) the contract price does not exceed ten thousand dollars (\$10,000), or (3) an emergency threatening the public health, safety, and welfare has been declared by the board. Contracts for the maintenance or operation of district works or improvements may be negotiated when determined by the board to be in the public interest.



SEC. 19. Section 28 of the Kings River Conservation District Act (Chapter 931 of the Statutes of 1951) is amended to read:

Sec. 28. The board shall fix all water and power rates and all other charges for services or work done by the district and shall, through the general manager, collect the same. The board may establish suitable rules and regulations for the sale, distribution, and use of water and power and other services that may be rendered by the district and made therein and may provide that water, power, or services shall not be furnished to those against whom there are delinquent rates or charges.

The board may prescribe methods for the construction of works and the furnishing of materials, equipment, and supplies and for the letting of contracts therefor. However, any such contract requiring the expenditure of fifty thousand dollars (\$50,000), or more, shall be subject to competitive bidding, after advertisement therefor, and awarded to the lowest responsible bidder, except where the construction or work is to be done or performed by the district with its own forces upon force account.



Approved _____, 1998

Governor

